

EXHIBIT B

Declaration of Stephen Ma

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	Chapter 11
SORRENTO THERAPEUTICS, INC., <i>et al.</i> , ¹	Case No. 23-90085 (DRJ)
Debtors.	(Jointly Administered)
OFFICIAL COMMITTEE OF EQUITY SECURITIES HOLDERS,	
Plaintiff.	Adversary Proceeding No. 23-03106
v.	
BANK OF AMERICA SECURITIES, INC., MERRILL, LYNCH, PIERCE, FENNER & SMITH INCORPORATED, J.P. MORGAN SECURITIES LLC, MORGAN STANLEY & CO., LLC, PERSHING LLC, NATIONAL FINANCIAL SERVICES LLC, STATE STREET BANK AND TRUST COMPANY, AND UBS SECURITIES LLC,	
Defendants.	

**DECLARATION OF STEPHEN MA IN SUPPORT OF PLAINTIFF'S
EMERGENCY APPLICATION FOR A TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTIVE RELIEF**

I, Stephen Ma, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct to the best of my knowledge, information and belief:

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity's federal tax identification number, are: Sorrento Therapeutics, Inc. (4842) and Scintilla Pharmaceuticals, Inc. (7956). The Debtors' service address is: 4955 Directors Place, San Diego, CA 92121.

1. I am the Chief Accounting Officer of Scilex Holding Company (“Scilex”), a non-debtor affiliate of Sorrento Therapeutics, Inc. (“Sorrento” and, together with co-debtor Scintilla Pharmaceuticals, Inc., the “Debtors”).

2. I submit this declaration in connection with the Official Committee of Equity Security Holders’ (the “Equity Committee” or “Plaintiff”) *Emergency Application for A Temporary Restraining Order and Preliminary Injunctive Relief* (the “Application”), filed contemporaneously herewith.² I have conferred with the Equity Committee concerning the Application and the relief sought therein.

3. Unless otherwise stated in this declaration, all matters set forth in this declaration are based on my personal knowledge, my review of relevant documents, information supplied to me by various professionals, or my views, including as based upon my experience and knowledge of the business and financial conditions of the Debtors and/or their affiliates. If called upon to testify, I could and would testify competently to the facts set forth in this declaration.

I. The Debtors’ Interest in Scilex and the Scilex Dividend.

4. I am aware that on February 13, 2023 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).³

5. Debtor Sorrento holds a 52% equity interest in Scilex, a publicly traded company that resulted from a spinoff and dividend to Sorrento shareholders.

6. I understand that as of the Petition Date, Sorrento owned (i) approximately 59 million shares of Scilex common stock (the “Scilex Common Stock”) and (ii) approximately 29

² Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the Application.

³ Unless otherwise noted herein, references to “Dkt. No.” shall refer to the docket entries in the Debtors’ lead bankruptcy case.

million shares of Scilex's Series A Preferred Stock (the "Scilex Preferred Stock"). These securities collectively had a market value of approximately \$850 million on the Petition Date.

7. Sorrento holds a majority of the aggregate voting power of Scilex stock.

8. I understand that on December 30, 2022, Sorrento announced a dividend to its shareholders of 76 million shares of Scilex Common Stock (the "Sorrento Dividend" and the shares so distributed, the "Dividended Scilex Stock"). I am informed that the Sorrento Dividend occurred on January 19, 2023, and reduced Sorrento's ownership interest in Scilex Common Stock from 96.2% to 42.5%.

II. The Discrepancy in Reported Shares of Scilex Stock.

9. On May 4, 2023, Scilex held its annual shareholder meeting. The record date for shareholders entitled to receive notice of and vote at the annual shareholder meeting was March 6, 2023, and Scilex filed proxy materials with the SEC in advance as required by federal securities laws.

10. I have been advised that the proxy materials mandated to be delivered to beneficial owners of more than 44 million shares of Scilex Common Stock were never delivered.

11. As a result, Scilex management suspected that the brokers, dealers, banks and other nominees that act as agents for Sorrento shareholders failed to report their total shareholdings to Broadridge Financial Solutions, Inc. ("Broadridge"), the entity designated to collect, verify, and tabulate shareholder votes for Scilex's annual meetings.

12. I understand that soon thereafter, the Debtors obtained a report produced by Broadridge confirming a significant discrepancy between the number of shares held at top brokerage firms and the number of shares actually reported to Broadridge, the discrepancy being

larger than the 3,000,000 public share float. This indicated to me and others that there might be widespread illegal naked short selling of the Scilex Common Stock.

13. I understand that on March 31, 2023, the Debtors filed a motion (the “Rule 2004 Motion”) that sought, *inter alia*, an order compelling certain brokerages (the “Rule 2004 Firms”) to provide written responses to various requests (collectively, the “Information Requests”) on or before April 5, 2023. The Information Requests sought information regarding which Rule 2004 Firms had failed to report, or had underreported, the ownership of Scilex Common Stock so that the Debtors could seek to remedy such failure and its effect on Scilex’s stock value.

14. Scilex and the Debtors believed that a substantial number of minority shareholders of Scilex may have been actually or functionally disenfranchised by the Rule 2004 Firms’ failure to report all holdings of Scilex Common Stock and to deliver proxy materials in compliance with federal securities laws. I understand that on April 11, 2023, the Court entered an order approving the Rule 2004 Motion.

15. Upon information and belief, the Debtors received surprisingly few responses to the Information Requests from the Rule 2004 Firms. Furthermore, nearly all responses that the Debtors received were inadequate, incomplete, and/or failed to definitively resolve the uncertainties surrounding the reporting of Scilex Common Stock.

16. In response to these events, I understand the Debtors conferred with the Equity Committee and agreed that the Equity Committee should investigate the foregoing reporting deficiencies and take additional measures to rectify what appeared to be abusive naked short-selling practices that would be artificially depressing the value of the Scilex Common Stock and the Debtors’ estates.

17. I understand that on May 11, 2023, and after conferring with the Debtors, the Equity Committee filed the *Official Committee of Equity Securities Holders' Emergency Motion Seeking to Compel Certain Brokerage Firms' Compliance with Various Regulatory Requirements* [Dkt. No. 594] (the "Motion to Compel") seeking to compel certain brokerage firms (the "Brokerage Firms") to ensure that all Dividend Scilex Stock had been properly recorded and segregated in their customers' accounts in compliance with applicable regulatory requirements.

18. On May 12, 2023, the Court entered the *Order Compelling Brokerage Firms' Compliance with Various Regulatory Requirements* [Dkt. No. 609, and, as amended, Dkt. No. 681] (the "Order").

19. I understand that the Order partially granted the Motion to Compel and, *inter alia*, directed the Brokerage Firms to "credit all Dividend Scilex Stock to their customers' accounts" and to "file a report with the Court detailing as to each customer account, on an anonymous basis, the number of shares of Dividend Scilex stock credited and quoted price of such stock on a mark-to-market basis" by no later than May 23, 2023.⁴ See Order ¶ 2(a).

IV. Brokerage Firm Responses to Order Reveal Evidence of "Naked" Short-Selling.

20. I have reviewed the publicly filed responses to the Order by the Brokerage Firms to date, including the responses filed by the Defendants. I understand and have been advised that the responses submitted by the Defendants appear to confirm Scilex's, the Debtors', and the Equity Committee's suspicions that many of the Brokerage Firms are not complying with Regulation SHO, and that abusive "naked" shorting of the restricted Dividend Scilex Stock was and still is occurring in the market.

⁴ I understand that the Equity Committee received several requests from various Brokerage Firms for extensions of the deadline to comply with the Order Compelling Compliance. I further understand that the Equity Committee generally granted such extension requests, the latest of which expired on June 7, 2023.

21. I believe the Debtors have suffered and continue to suffer significant harm as a result of the naked short-selling of Dividended Scilex Stock. I know that since the filing of the Rule 2004 Motion and the Motion to Compel, the price of the Scilex Common Stock has been marked by drastic and uncharacteristic fluctuations due to the unchecked naked short-selling of the Scilex Common Stock and the Dividended Scilex Stock.

22. I further believe the short-selling of the Dividended Scilex Stock and Scilex Common stock is causing significant harm to the Scilex stock price. Furthermore, I understand the artificial depression of the Scilex Common Stock price poses a major obstacle to the Debtors' efforts to obtain post-petition financing based on the value of the Scilex stock.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: June 12, 2023
Palo Alto, California

By: /s/ Stephen Ma
Stephen Ma
Chief Accounting Officer, Scilex Holding Company